

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
(Miami Division)  
**Case No. 1:24-cv-22849-Civ-Ruiz**

NERLYNE AUGUSTE,

Plaintiff,

vs.

DESH INCOME TAX &  
IMMIGRATION SERVICES, LLC,  
and MAGDALA NICLASSE,

Defendants.

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**DEFENDANTS' AGREED MOTION FOR EXTENSION OF TIME TO  
RESPOND TO PLAINTIFF'S MOTION FOR PARTIAL  
JUDGMENT ON THE PLEADINGS**

Defendants, DESH INCOME TAX & IMMIGRATION SERVICES, LLC, and MAGDALA NICLASSE, in accordance with Federal Rule of Civil Procedure 6(b)(1)(A), hereby move for an extension of time, until and including November 22, 2024, to respond to Plaintiff's Motion for Partial Judgment on the Pleadings (As to Counts VI and VII of the Complaint) [Doc. 21], filed October 24, 2024,<sup>1</sup> and as grounds therefor state as follows:

1. Plaintiff's Complaint was served on Defendants on September 3, 2024, and Defendant's Answer and Affirmative Defenses [Doc. 15] were served October 1, 2024. The parties' Joint Scheduling Report [Doc. 17] was filed

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<sup>1</sup> Counts VI and VII raise state law claims under § 68.065, Fla. Stat., based on two alleged NSF checks made out to Plaintiff from Defendants' bank account.

October 8, 2024, and the Court's Order Setting Jury Trial, Requiring Mediation, and Referring Certain Matters to Magistrate Judge [Doc. 18] was entered October 14, 2024.

2. Ten days after Defendants filed their Response to Plaintiff's Statement of Claim [Doc. 19] on October 14, 2024, Plaintiff filed her Motion for Partial Judgment on the Pleadings [Doc. 21] on October 24, 2024. On that same date, the Court entered a Settlement Conference Order [Doc. 22], scheduling a settlement conference before Magistrate Judge Louis for November 12, 2024 at 10:00 a.m.

3. Because the parties were notified of the settlement conference on the same date that Plaintiff filed her Motion for Partial Judgment on the Pleadings, Defendants' undersigned counsel calendared the November 12 date for the settlement conference in his law firm's case management software (MyCase) but neglected to calendar the November 7 deadline for the response to Plaintiff's Motion for Partial Judgment on the Pleadings, based on the assumption that incurring the fees for the response prior to the settlement conference would only serve to decrease the likelihood of an early settlement.

4. The parties' Joint Notice of Mediator Selection and hearing Date [Doc. 23] was filed October 29, 2024 and on October 30, 2024, the Court entered an Order Scheduling Mediation for January 29, 2025, with Neil Flaxman, Esq. [Doc. 24].

5. By Order entered November 1, 2024, the settlement conference with Magistrate Judge Louis was reset for November 13, 2024, at 1:30 p.m.

6. When counsel for the parties spoke on November 12, 2024 to prepare for the settlement conference the next day, Plaintiff's counsel formally agreed to an extension of time for Defendants' response to Plaintiff's Motion for Partial Judgment on the Pleadings.

7. The parties attended the settlement conference with Magistrate Judge Louis at 1:00 p.m. on November 13, 2024, and although the case did not settle, the parties agreed to adjourn their discussions after two hours rather than declaring an impasse, so that they could confer with their respective clients about some of the key factual and legal issues that were discussed with Magistrate Judge Louis.

8. Because the parties have agreed to continue their settlement discussions over the next few weeks with the option of seeking additional assistance from Magistrate Judge Louis, Defendants hereby seek a thirty (30) day extension of time, Nunc Pro Tunc, for their response to the Motion for Partial Judgment on the Pleadings that was otherwise due November 7, 2024 under Local Rule 7.1(c). If granted, the new deadline for the response would be December 6, 2024.

9. In accordance with Federal Rule of Civil Procedure 6(b)(1)(B), based on the settlement conference with Magistrate Judge Louis held November 13, 2024 and the parties' continuing settlement discussions, Defendants have

shown good cause for the requested extension as well as excusable neglect for seeking this extension after the expiration of the fourteen-day deadline proscribed by Local Rule 7.1(c).

10. This extension is sought in good faith and not for purposes of delay, and neither of the parties will be prejudiced if relief is granted.

WHEEREFORE, Defendants respectfully request a thirty-day extension of time, Nunc Pro Tunc, until and including December 6, 2024, to respond to Plaintiff's Motion for Partial Judgment on the Pleadings (As to Counts VI and VII of the Complaint). A proposed order is submitted herewith.

Respectfully submitted,

Christopher C. Sharp

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Dated: November 14, 2024

Counsel for Defendants

**Certificate of Service**

I hereby certify that on November 14, 2024, the foregoing document was electronically filed with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: Christopher C. Sharp  
Christopher C. Sharp, Esq.

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